IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

RSA No.394 of 2006

Decided on: September 14, 2006

Durga Bhagwati and another **.....Appellants.**

VERSUS

Nandu and another **.....Respondents.**

Coram

The Hon'ble Mr. Justice Surjit Singh, Judge.

Whether approved for reporting?

For the Appellants : **Mr. Jagdish Rajta, Advocate, vice Mr. Tek Chand Sharma, Advocate.**

For the respondents : **Mr. Baldev Singh, Advocate, for respondent No.1.**

None for respondent No.2.

Surjit Singh, Judge (Oral)

Heard and gone through the record.

2. Appellants-plaintiffs filed a suit seeking issuance of permanent prohibitory injunction restraining the respondents-defendants from demolishing the old Temple and constructing a new one in place thereof, alleging that plaintiff No.2 (appellant No.2 herein) was *Kardar* of Temple Durga Bhagwati, impleaded as plaintiff No.1, and that respondents-defendants without any right, title or interest, or without their having to do anything with the Temple, were threatening to demolish the old Temple and construct a new one in its place.

3. Suit was contested by the respondents-defendants. They pleaded that respondent No.1/defendant No.1 Nandu was the

---

Whether the reporters of the local papers may be allowed to see the judgment?

Kardar of the Temple at present and before him his father Bardu was the *Kardar.*

4. Trial Court after framing the issues and recording the evidence of the parties returned the finding that appellant No.2 Gopal Krishan was not the *Kardar* but defendant No.1 Nandu was the *Kardar* of the Temple and that there was a resolution of the Management Committee of the Temple authorizing defendant No.1 to carry out the construction of new Temple. Consequently, the suit was dismissed. Appeal was filed by the appellants-plaintiffs in the Court of District Judge, which also stands dismissed.

5. Submission made by the learned counsel for the appellants is that the two Courts below have not read and appreciated the evidence in the right perspective and this has led to the recording of a perverse finding by them that defendant No.1 is the *Kardar* of the Temple. He submits that defendant No.1 Nandu, while in the witness box, admitted that earlier the father of appellant No.2 was the *Kardar* and that this admission falsifies the defendants' plea that earlier Bardu, the father of Nandu, was the *Kardar* and after him defendant-respondent No.1 has inherited that Office. The submission is without merit. The learned counsel has shown me from his brief a Photostat copy of the statement of Nandu recorded by the trial Court. Nandu, as a matter of fact, denied that Chet Ram, the father of appellant No.2, was the *Kardar* of the Temple. Not only this, he stated that his father Bardu was the *Kardar* and that his father being illiterate had requested Chet Ram, the father of appellant No.2, to maintain accounts of the Temple.

6. In view of the abovestated position, I do not think that any substantial question of law arises. Therefore, the appeal is dismissed.

CMP No.750/2006

Infructuous.

September 14, 2006(sd) **(Surjit Singh), J.**